REMARKS

The Examiner's Final Office Action mailed December 27, 2004 has been given careful consideration by the applicants. Claims 1, 3-6, 13, 16-18, and 22 have been amended, and claims 1-24 remain in the application.

The Office Action

The Examiner objected to claims 1, 13 and 22 for certain informalities.

The Examiner rejected claims 1-12 under 35 U.S.C. §112, second paragraph, as being indefinite.

The Examiner rejected claims 1-24 under 35 U.S.C. §103(a) as being unpatentable over Patel in further view of U.S. Patent No. 5,488,655 to Hamlen.

Claim Objections

The Examiner objected to claim 1 because it is unclear to the Examiner whether a "connection" or a "monitor" is being claimed. Claim 1 has been amended for clarification.

The Examiner also objected to the language "out of band", requesting that this language be changed to "out-of-band" in claims 1, 13 and 22. Applicants have corrected this informality in claims 1, 13 and 22, and also in claims 3-6 and claims 16-18 which also included the unhyphenated word. Applicants respectfully request that all claim objections be removed.

Rejections under 35 U.S.C. §112, 2d Paragraph

The Examiner rejected claims 1-12 under 35 U.S.C. §112, 2d paragraph as being indefinite because the components "host telecommunication switch", "controller", "PSTN", and "RSM" appear to be unrelated. Applicants refer the Examiner to Figure 1 of the application. Claim 1 has been amended to clarify the relationships among the components, and is now in condition for allowance. Additionally, claims 2-12, which depend from claim 1, are also in condition for allowance.

Rejections under 35 U.S.C. §103(a)

The Examiner rejected claims 1-24 under 35 U.S.C. §103(a) as being unpatentable over Patel in view of U.S. Patent No. 5,488,655 to Hamlen. However, as will be apparent from the discussion below, claims 1-24 are not rendered obvious by the

suggested combination.

First, the cited patents are not combinable. Hamlen is concerned with finding a way to smooth out usage volumes on a telecommunications network. That is, a typical telecommunications system, specifically a wireless network system, is generally built in order to accommodate the number of users on the system at the peak hours of the day. Peak times are usually 10-11am and 4-5pm. The inherent problem is that at other times during the day, the amount of capacity greatly exceeds the number of users on the system, creating waste. In order to smooth out usage, and thus decrease waste, Hamlen proposes a system and method whereby the network system is first measured specifically to determine only the unused capacity over time. Thus, between 6-7am, unused capacity may be 80%, while between 10-11am, unused capacity may be 0%, etc. Then, customer usage rates are derived from this data, with the rates being higher at times of peak usage and lower at other times. This information is then broadcast to customers' cell phones, such that a customer may observe, via a LCD display or a LED, what rate level is currently in effect, and has an incentive to call at times having a lower rate. The quantity of traffic over time through the system is thus smoothed out by the use of "variable price incentives" to customers.

Patel seeks to solve a very different problem. Patel is not concerned with quantitative statistics and the efficiency of the system, rather it is concerned with the integrity and quality of emergency calls within a greater switching system. The problem that Patel is attempting to solve is that grossly monitoring all calls through the greater switching system will not uncover qualitative problems with emergency calls because emergency calls are only a very small portion of all calls in the system. Thus, Patel first determines if a call is an emergency call and then performs dedicated call monitoring only on the emergency calls in order to ensure the integrity and quality of the emergency call and to alert an operator of an error by sounding an alarm.

The Examiner will appreciate that one faced with the problem of Patel, i.e. that of ensuring the quality of a relatively small number of calls within a system, would not look to Hamlen, which is concerned with statistically smoothing out call quantity over time through the system by using price incentives, for a solution.

Indeed, Patel teaches away from combination with Hamlen. At col. 1, line 34, Patel states that "unfortunately, the general monitoring of the integrity of a switching system does not adequately identify problems in emergency calls." It is just this "general monitoring" with which Hamlen is concerned. If the quantitative techniques of

Hamlen were applied to Patel, the system and method of monitoring emergency calls used in Patel would be inoperable because the emergency calls would be lost in the quantitative data and would never be found.

Similarly, if the qualitative techniques of Patel, i.e. those of segregating off a particular type of calls, were applied to Hamlen, the number of PSTN links available over time could not be computed, because volume data would be incomplete. This incomplete data would result in inaccurate customer usage rate determinations which, in turn, would render the Hamlen system inoperable because the key to Hamlen is accurate computation of customer usage rates in order to provide proper monetary incentives and disincentives to customers.

Second, even if the patents could somehow be combined, the suggested combination does not teach all limitations of the present development as claimed in independent claims 1, 13, or 22. For example, the suggested combination would not allow for monitoring of usage data between a remote switching module and a public switched telephone network (PSTN). First, the Examiner's designation of a PSAP 106 of Patel as a remote switching module as described and claimed has not been substantiated. Second, the usage monitoring described in Hamlen in the cited portions relate to whether selected PSTN links are available, not necessarily traffic monitoring between a remote switching module (RSM) and a PSTN. Therefore, claims 1, 13, and 22, and their dependent claims, should be allowed.

CONCLUSION

For the reasons detailed above, it is respectfully submitted all claims remaining in the application (Claims 1-24) are now in condition for allowance. The foregoing comments do not require unnecessary additional search or examination.

In the event the Examiner considers personal contact advantageous to the disposition of this case, he/she is hereby authorized to telephone Joseph D. Dreher, at (216) 861-5582.

Respectfully submitted,

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April 27, 2005
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